

Resolution No.:	<u>15-852</u>
Introduced:	<u>January 18, 2005</u>
Adopted:	<u>January 18, 2005</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 9-04AM, Amendments to the Montgomery County Personnel Regulations on Multilingual Pay, Service Increment Dates, Annual and Sick Leave, and Promotion

Background

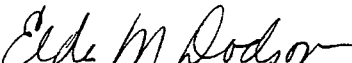
1. On July 20, 2004, the County Council received Executive Regulation 9-04, Amendments to the Montgomery County Personnel Regulations on Multilingual Pay, Service Increment Dates, Annual and Sick Leave, and Promotion, from the County Executive.
2. Executive Regulation 9-04 is processed under Method 1, and is not adopted until the County Council approves it.
3. The Management and Fiscal Policy Committee reviewed Executive Regulation 9-04 on October 7, 2004, and recommended certain amendments. The Committee recommends approval as amended.
4. The Executive reissued the subject regulation incorporating the Committee's recommended amendments, and re-numbered it Executive Regulation 9-04AM to indicate that it was amended after transmittal to the Council.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 9-04AM, Amendments to the Montgomery County
Personnel Regulations on Multilingual Pay, Service Increment Dates,
Annual and Sick Leave, and Promotion, is approved.

This is a correct copy of Council action.



Elda M. Dodson, CMC
Acting Clerk of the Council



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Subject Amendments to Montgomery County Personnel Regulations on Multilingual Pay, Service Increment Dates, Annual and Sick Leave, and Promotion	Number 9-04AM
Originating Department Office of Human Resources	Effective Date

Amendments to Montgomery County Personnel Regulations on Multilingual Pay, Service Increment Dates, Annual and Sick Leave, and Promotion

Executive Regulation No. 9-04AM, COMCOR 17.9.04AM

Issued by: County Executive

Supersedes: None

Authority: Montgomery County Code, 1994, §33-7(b)

Council review: Method 1

Montgomery County Register Volume 21, Issue 5

Comment deadline: June 1, 2004

Effective date: January 18, 2005

Summary: This regulation amends MCPR Sections 6, 10, and 11 to incorporate information about multilingual pay differentials; Section 12 to establish service increment dates for employees who leave MLS positions; Section 16 to clarify the initial employment date for annual leave accrual; Sections 16 and 17 to clarify that employees who leave MLS positions retain accrued PTO and earn annual and sick leave; and Section 27 to clarify the policy on promotion.

Address for comments Office of Human Resources, Executive Office Building, 7th Floor
101 Monroe Street, Rockville, Maryland 20850

Staff contact: Carol Rollins, 240-777-5052, or carol.rollins@montgomerycountymd.gov

This is a clean copy of the regulation that shows how it will appear after the amendments are incorporated. Use the key below when reading this regulation:

Boldface

* * *

Heading or defined term.

Existing language unchanged by executive regulation.



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SECTION 6. RECRUITMENT AND APPLICATION RATING PROCEDURES

* * *

6-2. Announcement of open jobs.

- (a) The OHR Director:

* * *

- (2) must include in a vacancy announcement information about job duties, minimum qualifications, any multilingual requirements, the rating process including the rating criteria, and other requirements for the position;

* * *

SECTION 10. EMPLOYEE COMPENSATION

10-1. Definitions.

- (a) **Advanced multilingual skills:** Those skills required for written and oral communication and comprehension in a language other than English.
- (b) **Basic multilingual skills:** Those skills primarily required for signing or for oral communication and comprehension, such as those used in conversation with clients and citizens, in a language other than English.
- (c) **Control point:** * * *
- (d) **Excess compensatory time:** * * *
- (e) **General emergency pay:** * * *
- (f) **General wage adjustment:** * * *
- (g) **Multilingual pay differential:** Additional compensation given by the County to a County government employee who:



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- (1) has been designated to fill a general department need for specific language skills or occupies a position that has been designated to provide multilingual services;
- (2) is certified by OHR as having basic or advanced multilingual skills; and
- (3) provides multilingual services in the course of the employee's County government employment.

- (h) **On-call:** * * *
- (i) **Overtime compensation threshold:** * * *
- (j) **Overtime work:** * * *
- (k) **Pay status:** * * * * *
- (l) **Performance-based pay:** * * *
- (m) **Shift-pay differential:** * * *
- (n) **Special pay differential:** * * *
- (o) **Stand-by pay:** * * *
- (p) **Stand-by status:** * * *
- (q) **Work status:** * * *
- * * *

10-9. Pay differentials. The CAO may authorize a pay differential if the County Council approves the differential.

* * *

(c) **Multilingual pay differentials.**

- (1) **Eligibility for multilingual pay.** To be eligible to receive a multilingual pay differential, an employee must be fluent in English and:
 - (A) be certified by OHR as having basic or advanced multilingual skills;



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- (B) be assigned to a position designated for a multilingual pay differential or be an employee designated to fill a general department need for specific language skills; and
 - (C) actually provide or be available to provide multilingual services in the course of the employee's County government employment.
- (2) ***Designation of a position, occupational class, or occupational series as requiring multilingual skills; identification of a general need for multilingual skills.***
- (A) With the approval of the OHR and OMB Directors, a department director may:
 - (i) designate a position, occupational class, or occupational series as requiring the ability to communicate in American Sign Language, a language other than English, or several languages other than English; or
 - (ii) identify a specific language skill (e.g., Spanish, Farsi) that is generally needed within a department, division, or work unit but which language skill is not otherwise related to the duties of a particular position, occupational class, or occupational series.
 - (B) The department director must provide the following information to the OHR and OMB Directors in writing:
 - (i) the specific language skill needed;
 - (ii) the client population or program that would benefit from an employee's ability to communicate in the language identified;



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- (iii) whether basic or advanced multilingual skills are needed;
 - (iv) how often the identified language skill is needed; and
 - (v) how many employees with the language skill are needed to meet the needs of the department, division, or work unit.
- (C) A department director may, with the approval of the OHR and OMB Directors, change the language previously identified to a different language or change the level of proficiency needed. The department director must provide the OHR Director and OMB Director with a written justification for the change.
- (D) The OHR and OMB Directors must take the following into consideration when reviewing a request for a multilingual designation of a position, occupational class, or occupational series or the identification of a specific language skill generally needed within a department, division, or work unit:
 - (i) the department's reason for the request; and
 - (ii) the total number of employees in the department and the County government who have the language skill identified by the department; and
 - (iii) whether the department's need could be met by other employees in the department or County government who are already certified to provide the required language skill.
- (E) When recruiting to fill a vacant position by initial appointment or promotion, a department director may include a specific language skill as a qualification or a preferred qualification if the OHR and OMB Directors have approved the department director's request



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for a multilingual designation of the position or the occupational class or occupational series that includes the position.

(F) If a position is designated as requiring multilingual skills and the incumbent employee does not have the required multilingual skills, the department director must:

- (i) exempt the position from the requirement until the incumbent employee leaves the position; or
- (ii) transfer the employee to an equivalent position that does not require multilingual skills, with the same salary, benefits, and working conditions.

(G) A department director must review the multilingual designation of a position after:

- (i) a certified multilingual employee leaves the position through promotion, transfer, or separation; or
- (ii) the performance evaluation of a certified multilingual employee indicates that the employee did not use, or seldom used, the multilingual skills during the rating period.

(H) A department director should review the multilingual designation of an occupational class or occupational series or the identification of a specific language skill generally needed within a department, division, or work unit after:

- (i) a program change or reorganization that affects the need for multilingual skills;



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- (ii) a change in client characteristics that indicates that the identified language skill may no longer be needed; or
 - (iii) the performance evaluations of employees who are certified in a particular language indicate that the employees did not use, or seldom used, the multilingual skills during the rating period.
- (3) ***OHR certification of multilingual employees.***
 - (A) To have an employee's language skills certified, a department director must submit the following to OHR:
 - (i) the OHR and OMB approval of the designation of the position, occupational class, or occupational series as requiring multilingual skills or approval of the identification of a specific language skill generally needed within a department, division, or work unit; and
 - (ii) a completed language certification form.
 - (B) The department director must provide the following information on the language certification form:
 - (i) the language skill needed;
 - (ii) the level of proficiency needed (basic or advanced); and
 - (iii) the name of the employee whose language skills need to be certified.
 - (C) After receiving the OHR and OMB approvals and a completed language certification form from a department, the OHR Director must:
 - (i) schedule the employee for a language test;



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- (ii) conduct the examination;
 - (iii) notify the employee and department of the examination results and the effective date of the certification if the employee passed the language examination; and
 - (iv) add the name of the newly-certified employee to the Countywide Interpreter List, unless the department director has requested that the employee's name not be included on the List and the OHR Director has approved the request.
- (D) If the employee fails the examination, the employee may submit a request to be retested within 6 months of the date of the initial examination. If the employee has not passed the examination within 6 months of the initial examination, the department must submit a new language certification form for the employee to be tested again.
- (4) **Countywide Interpreter List.**
 - (A) The OHR Director must maintain a list of County employees who have been certified as having multilingual skills and make the list available to all County departments on the County internet website. The list must include the following information;
 - (i) employee's name and department;
 - (ii) employee's work phone number and e-mail address;
 - (iii) language in which employee is certified; and
 - (iv) level of proficiency.
 - (B) The OHR Director may approve a request from a department director that a certified employee's name not be included on the



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Countywide Interpreter List if the demand for the employee's certified multilingual skills within the department and the nature of the employee's job duties would make the employee unavailable for interpreter assignments in other departments.

- (C) A department director must advise the OHR Director promptly when:
 - (i) a certified employee leaves County employment or the designated position; or
 - (ii) a certified employee will be unavailable for interpreter assignments for an extended period of time for any reason.
- (D) An employee whose name is on the Countywide Interpreter List must:
 - (i) make a reasonable effort to provide interpreter services at the request of other departments; and
 - (ii) must obtain the approval of the employee's supervisor before accepting assignments from other departments.
- (E) A department manager who requests the services of an employee on the List from another department must:
 - (i) give reasonable notice to the certified employee of the need for interpreter services;
 - (ii) not subject the employee to hazardous conditions or place the employee in potentially dangerous situations; and
 - (iii) if required, provide the employee with transportation to the location where the interpreter services are needed or



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reimburse the employee for travel and other appropriate expenses.

(5) ***Payment and amount of multilingual pay differentials.***

- (A) The County must pay a higher multilingual pay differential to an employee who is certified at the advanced level than an employee certified at the basic level.
- (B) The amount of multilingual pay differentials for unrepresented employees is determined by the CAO and approved by the Council. The amount of the differentials for bargaining unit employees is determined through collective bargaining and is subject to Council approval.
- (C) The County must pay the multilingual pay differential to a certified employee only for the hours worked and not for hours of paid leave or holidays.
- (D) The County must not pay more than one multilingual pay differential to an employee even if the employee is certified in more than one language.
- (E) The County must not pay a multilingual pay differential to an employee who leaves the position designated for the differential, unless the employee is transferred or reassigned to another position for which the same multilingual skills are approved.
- (F) If a department uses an employee on the Countywide Interpreter List from another department to provide interpreter services for 4 or more hours in a pay period, the department director of the using department must reimburse the employing department for the



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hourly salary of the employee for the hours that the employee spent providing services to or for the using department.

- (6) ***Performance evaluation of employee receiving multilingual pay.*** The supervisor of an employee who receives multilingual pay must:
- (A) include the use of multilingual skills as a performance expectation of the employee's performance plan; and
 - (B) rate the employee's performance in using the multilingual skills.
- (7) ***Renewal of an employee's multilingual certification.***
- (A) An employee must periodically renew the employee's multilingual certification if the employee wishes to continue to receive the pay differential associated with the certification.
 - (B) The OHR Director must:
 - (i) establish the period after which a certified employee must renew the multilingual certification by passing another certification examination;
 - (ii) notify the employee, in writing, of the requirement to renew the employee's multilingual certification;
 - (iii) schedule and administer the examination.
 - (C) An employee who fails the examination to renew the multilingual certification must take and pass the examination within 3 months of the first renewal examination or the employee will lose the certification and the multilingual pay differential. The OHR Director may grant an extension for up to one month for extenuating circumstances.



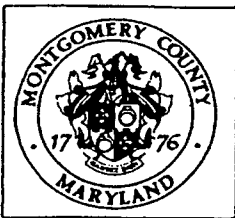
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(8) ***Stopping a multilingual pay differential.***

- (A) A department director must ensure that the County stops paying the multilingual differential to a certified employee who:
- (i) transfers to, or assumes, a position for which the multilingual skills are not approved;
 - (ii) was certified to provide multilingual services that are no longer needed;
 - (iii) is no longer needed by a department to fill the role of providing a specific language skill generally needed in the department;
 - (iv) is no longer able to provide the multilingual services;
 - (v) no longer wishes to provide the multilingual services;
 - (vi) refuses or fails to provide requested multilingual services in a satisfactory manner; or
 - (vii) fails to renew the multilingual certification as required.
- (B) The department director must notify the certified employee and the OHR and OMB Directors of a decision to stop paying a multilingual differential to a certified employee and the reasons for stopping the differential.
- (C) If multilingual skills are a requirement for a designated position and the incumbent employee no longer wishes to provide the multilingual skills, the department director must determine if the employee's request can be accommodated by means such as transferring the employee or relying on the multilingual skills of other employees. If the director determines that the request cannot



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be accommodated, the department director may deny the employee's request.

- (D) If an employee refuses or fails to provide requested multilingual services in a satisfactory manner, this should be reflected in the employee's performance evaluation and may be grounds for disciplinary action or other action to remove the employee from the designated position.

- (9) ***Appeal of decisions on multilingual pay.*** The following decisions on multilingual pay are not grievable matters:

- (A) eligibility of languages or positions for multilingual designation;
(B) the content of language proficiency examinations;
(C) the certification or non-certification of an employee's eligibility for multilingual pay; and
(D) stopping the payment of a multilingual pay differential under subsection (8) above.

- (d) ***Disposition of pay differentials.***

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SECTION 11. PERFORMANCE PLANNING AND EVALUATION

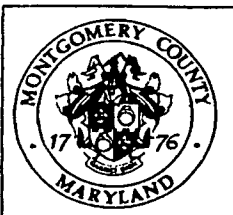
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11-5. The performance plan.

* * *

- (c) ***Substance of a performance plan.***

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- (9) If an employee receives a multilingual pay differential, the employee's supervisor must include a performance expectation that the employee will provide multilingual services as required.

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SECTION 12. SERVICE INCREMENTS

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12-6. Reassignment of increment date.

* * *

- (g) The OHR Director must assign a new service increment date to an employee in an MLS position who is promoted, demoted, or reassigned to a non-MLS position.
- (1) If the employee was in a non-MLS position in the County and had a service increment date before taking the MLS position, the OHR Director must assign as the new service increment date the last service increment date that the employee had before becoming an MLS employee.
- (2) If the employee was not in a non-MLS position before taking the MLS position, the OHR Director must assign as the new service increment date the date on which the employee was first employed by the County in a merit system position.

* * *

SECTION 16. ANNUAL LEAVE

* * *

16-4. Change in annual leave accrual rate.

- (a) An annual leave accrual rate change is effective on the first day of the pay period in which the employee completes 3 years or 15 years of County service, except



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when the employee has used more than 4 consecutive weeks of LWOP as described in Section 23-8(a)(2).

- (b) The initial employment date for the purpose of annual leave accrual and the maximum annual leave carryover limit is the date on which the employee was first employed in a merit system career position.

* * *

16-12. Paid time off (PTO) and annual leave. PTO is a type of leave granted to MLS employees who are members of the Retirement Savings Plan.

* * *

- (d) ***Conversion of annual leave to PTO for certain MLS employees.***

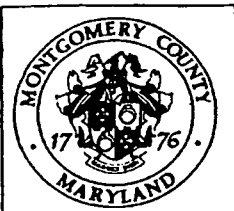
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- (3) If an MLS employee who receives PTO leaves the MLS position and is promoted, demoted, or reassigned to a non-MLS merit system position, the CAO must:
- (A) allow the employee to retain and use the unused PTO hours that the employee had accumulated before the current leave year and a prorated share of the unused PTO hours for the current leave year; and
 - (B) allow the employee to earn annual leave from the effective date of the employee's promotion, demotion, or reassignment to a non-MLS position.

- (e) ***Disposition of PTO at separation or death.***

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- (3) If an employee who has unused PTO and annual leave separates from County employment or dies, the County must pay the employee or the



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employee's beneficiary or estate for up to 600 hours of unused PTO and annual leave combined.

* * *

SECTION 17. SICK LEAVE

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17-16. Paid time off (PTO) and sick leave. PTO is a type of leave granted to MLS employees who are members of the Retirement Savings Plan.

* * *

(c) Conversion of sick leave to PTO for certain MLS employees.

* * *

- (3) If an MLS employee who receives PTO leaves the MLS position and is promoted, demoted, or reassigned to a non-MLS merit system position, the CAO must:
- (A) allow the employee to retain and use the unused PTO hours that the employee had accumulated before the current leave year and a prorated share of the unused PTO hours for the current leave year; and
 - (B) allow the employee to earn sick leave from the effective date of the employee's promotion, demotion, or reassignment to a non-MLS position.

* * *

SECTION 21. ADMINISTRATIVE LEAVE

21-1. Authorized uses of administrative leave. The CAO may grant administrative leave to an employee:

* * *



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- (g) for bereavement, under Section 21-2 of these Regulations;

* * *

SECTION 27. PROMOTION

* * *

27-1. Policy on promotion.

* * *

- (b) The County's promotional program must provide:

* * *

- (2) full and fair consideration of all eligible employees for higher level positions.

Approved:

Douglas M. Duncan
Douglas M. Duncan, County Executive

11/3/05
Date

APPROVED AS TO FORM AND LEGALITY.

OFFICE OF THE COUNTY ATTORNEY

BY *David Stevenson*

DATE December 27, 2004